

HOUSE No. 1242**The Commonwealth of Massachusetts**

PRESENTED BY:

Carl M. Sciortino, Jr.*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to prevent homelessness by removing barriers to subsidized housing.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-------------------------|------------------------------|
| Carl M. Sciortino, Jr. | 34th Middlesex |
| Anthony D. Galluccio | Middlesex, Suffolk and Essex |
| William N. Brownsberger | 24th Middlesex |
| Patricia D. Jehlen | Second Middlesex |
| Denise Provost | 27th Middlesex |
| Matthew C. Patrick | 3rd Barnstable |
| James B. Eldridge | Middlesex and Worcester |
| Timothy J. Toomey, Jr. | 26th Middlesex |
| Cleon H. Turner | 1st Barnstable |
| Kay Khan | 11th Middlesex |
| Mary E. Grant | 6th Essex |
| Alice K. Wolf | 25th Middlesex |
| Paul McMurtry | 11th Norfolk |
| Kathi-Anne Reinstein | 16th Suffolk |
| Tom Sannicandro | 7th Middlesex |
| Paul J. Donato | 35th Middlesex |
| Barbara A. L'Italien | 18th Essex |
| Thomas P. Conroy | 13th Middlesex |
| Jay R. Kaufman | 15th Middlesex |

| | |
|----------------|-------------------------|
| Sean Garballey | 23rd Middlesex |
| Ellen Story | 3rd Hampshire |
| James J. O'Day | 14th Worcester District |

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PREVENT HOMELESSNESS BY REMOVING BARRIERS TO SUBSIDIZED HOUSING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 121B of the General Laws is hereby amended by inserting after section 32F the following new section:-

Section 32G. (a) For the purpose of this section, “assisted units in affordable housing developments” shall include those rental housing units under the oversight of the Massachusetts Housing Finance Agency and/or the United States Department of Housing and Urban Development, targeted to persons of extremely low, very low, and low-incomes, where subsidy is provided to insure that such tenants do not pay more than forty percent of income for rent.

(b)(1) No applicant for federal or state public housing, for federally or state-funded rental assistance, or for assisted units in affordable housing developments operated in the Commonwealth shall be disqualified due to lack of credit history or based on his or her utility payment history; however, if the applicant will be required to pay for utilities, the housing authority, public housing agency, or owner of the affordable housing development may require that the applicant demonstrate an ability to establish utility services.

(2) In considering an application for federal or state public housing, for federally or state-funded rental assistance, or for assisted units in affordable housing developments in the Commonwealth, a housing authority, public housing agency, or owner or manager of an affordable housing development may only consider an applicant’s credit history in order to determine an applicant’s ability to pay rent and only when sufficient rental history is not available. A negative credit history shall not be used to deny an applicant who otherwise has had a positive history of payment of rent. Moreover, where an applicant has a questionable or negative history of non-payment of rent, or bad credit where there is no rental history, such as may otherwise lead to disqualification, the housing authority, public housing agency, or owner of

an affordable housing development shall consider mitigating circumstances, including but not limited to:

- (i) the availability of vendor payments under section 26 of chapter 18 of the General Laws, or representative payee, electronic fund transfer, or other reliable third-party written payment arrangements;
- (ii) evidence that payment or poor credit problems were the result of a disability or medical hardship and are unlikely to recur in housing where rent is based on income; (iii) evidence that payment or poor credit problems were the result of an excessive rent or shelter cost burden and are unlikely to recur in housing where rent is based on income; or (iv) evidence that payment or poor credit were the result of other circumstances that no longer exist (for example, debt incurred by an individual who will no longer be a part of the household) and there is reason to believe that the applicant will now pay the rent promptly and in full.

(3) If an applicant owes a debt to a housing authority, public housing agency, or owner of an affordable housing development such that the application would otherwise be denied or the applicant would otherwise be denied the ability to apply, and such debt is not unduly excessive, the applicant shall be given the opportunity to enter into a repayment plan which is reasonable in relationship to the applicant's income and circumstances and so long as the applicant is honoring such payment plan, the application shall be processed without regard to such debt. If the debt is not satisfied prior to placement or issuance of subsidy, but the housing authority, public housing agency, or owner or manager of the affordable housing development finds that the applicant is otherwise qualified and the debt is owed to the entity to which the application has been made, the applicant shall be admitted conditioned on the entry into acceptable payment arrangements which may operate as an additional condition of the tenancy or subsidy. The department of housing and community development, in consultation with other departments involved in the Commonwealth's continuum of care process, shall establish regulations as to what would constitute an unduly excessive debt or reasonable repayment arrangements.

(c) Housing authorities and public housing agencies or their subcontractors who are administering federal or state public housing or rental assistance programs, and owners or managers of affordable housing developments shall offer electronic fund transfer arrangements to tenants and participants in such programs as a means of ensuring direct and timely payment of rent and satisfaction of debts. Such arrangements shall be available to tenants and participants at no cost and on a voluntary basis. Similar arrangements shall also be offered to otherwise qualified applicants who owe debts to housing authorities or public housing agencies or affordable housing developments that otherwise would be a barrier to acceptance into such public housing, rental assistance, or affordable housing programs provided that the applicant enters into a repayment arrangement which is reasonable in light of the income and circumstances of the applicant. Late payment penalties under section 32 of chapter 121B of the General Laws and costs under section 11 of chapter 186 of the General Laws, if applicable, shall be waived by the Commonwealth for any tenants or participants participating in such arrangements.

(d) Housing authorities and public housing agencies who administer state or federal public housing or rental assistance programs and owners or managers of affordable housing developments shall permit tenants or participants in such programs to designate, at the inception of their tenancy or subsidy, or at any point thereafter, a third party who shall receive a copy of any notice provided to the tenant or participant by the housing authority, housing subsidy provider, or owner of an affordable housing development, including any notice reflecting an intention to terminate the tenant's tenancy or participation in a subsidy program. Such third parties may include a friend, family member, a caseworker, or such other person at the tenant may designate. Such designation may include authorization for release of information. Both the designation for third party notice and any authorization for release of information may be revoked by the tenant or participant at any time. In any case in which such designation and release of information is in effect, and an adverse action with respect to the tenancy or participation is under consideration, the parties shall, upon the request of the tenant or the third party, confer regarding any steps that might be taken to preserve the tenancy or subsidy.

SECTION 2. Section 3 of chapter 23B of the General Laws is hereby amended by adding to Subsection (v) the following new paragraph:-

Such qualified allocation plan shall give preference for assisted units in affordable rental housing to certain applicants who are homeless or at imminent risk of homelessness. Such preference shall apply to, but need not be limited to, victims of domestic violence, dating violence, or stalking who have been displaced or are at imminent risk of harm or displacement as a result of such violence, persons with medical emergencies or conditions who cannot be accommodated in their existing housing or for whom lack of suitable housing is a significant impediment to treatment or recovery, those who have been displaced by or are facing displacement by court-ordered eviction without fault or for nonpayment of rent where the tenant's rent and shelter cost burden exceeds fifty percent of adjusted income and where the nonpayment stems from changes in circumstances which were beyond the tenant's ability to prevent or control, such as departure of a household member, job loss or reduction of income, or illness or high medical costs. For the purpose of this section, the term 'homeless' shall include those in emergency shelter, those living on the street, in cars, or in places not suitable for human habitation, those in transitional housing, and those who are receiving temporary rental subsidies. For purposes of this paragraph, assisted units in affordable rental housing shall include any federally or state assisted public housing units, units receiving tenant-based or project-based Section 8 assistance, or other state or federal rental assistance targeted to persons of extremely low, very low, or low-income, and intended to insure that tenants do not pay more than forty percent of income for rent. Any such plan and preferences shall be consistent with any applicable federal or state requirements for the program, as well as with local consolidated and continuum of care plans, to the extent applicable. The department of housing and

community development, in consultation with other departments involved in the Commonwealth's continuum of care process, shall establish regulations regarding this provision.

SECTION 3. Section 32 of chapter 121B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after "(3)" in line 137 the following:-

to persons who are homeless or facing imminent homelessness, as provided in subsection (v) of section 3 of chapter 23 B of the General Laws; and (4)

SECTION 4. Said section 32 of chapter 121B is hereby further amended by inserting, after the word "regulations" in line 137 the following new sentence:-

Such preferences shall also be applied to federally assisted public housing except to the extent inconsistent with federal law.

SECTION 5. Said section 32 of chapter 121B is hereby further amended by adding after the words "the following" in line 268 the following new words: -

provided that only conduct that occurred within a reasonable period of time prior to admission shall be disqualifying.

SECTION 6. Said section 32 of chapter 121B is hereby further amended in the eleventh paragraph by striking out subsection (e) and inserting in place thereof the following: -

(e) The applicant or any household member who will be assuming part of the rent obligations has a history of non-payment of rent and such non-payment, if repeated by a tenant in public housing, would cause monetary loss; provided, however, that if the failure to pay rent was related to a shelter cost burden exceeding fifty percent of adjusted income or resulted from a change in circumstances which was beyond the tenant's ability to prevent or control, such as departure of a household member, job loss or reduction of income, or illness or high medical costs, or if due to safeguards that can be put in place it is likely that future rent will be paid in full and on time, such persons will not be denied on this basis.

SECTION 7. Said section 32 of chapter 121B is hereby further amended by adding at the end of the twelfth paragraph the following new sentence: -

In all cases, housing authorities shall also insure that no victim of domestic violence, dating violence, stalking, or sexual assault, or other victim or witness to violent or hate crime is denied admission to or priority for its housing programs because of that status, and that screening is done in a manner which protects such victims from safety risks (including the danger of reprisal by the perpetrator of violence or of the perpetrator being able to determine the victim's location).

120 SECTION 8. Section 44 of chapter 121B of the General Laws, as appearing in the 2006 Official Edition,
121 is hereby amended by striking out the first paragraph and inserting in place thereof the following: -

122 The requirements with respect to rentals and tenant selection for low-rent housing projects shall apply to
123 units leased by a housing authority under the rental assistance program, including but not limited to any
124 preference for certain persons who are homeless or facing imminent homelessness, as provided in
125 subsection (v) of section 3 of chapter 23 B of the General Laws. These same preference requirements
126 shall apply in the case of any project financially assisted by the federal government to the extent not
127 inconsistent with federal law. A housing authority shall release and assign its rights under any lease to
128 the tenant then occupying a dwelling unit or such other housing units subject to regulations promulgated
129 by the department of community affairs not inconsistent with the standards required for dwelling units
130 under the rental assistance program provided the tenant so requests and provided the tenant demonstrates
131 financial ability to pay the full rent called for under the lease. Payments to the owner of a dwelling unit or
132 said other housing unit leased under the rental assistance program shall be made in the manner determined
133 by the housing authority and agreed to by said owner. Amounts paid on behalf of tenant families under
134 the rental assistance program shall not be considered in determining the amount of welfare or other public
135 assistance payments to which they may be entitled.

136 SECTION 9. Section 7 of chapter 708 of the Acts of 1966, as amended, is hereby stricken and the
137 following is substituted:-

138 Prior to making a loan commitment under this act, the MHFA shall approve a tenant selection plan
139 submitted by the applicant for such a loan. The MHFA may issue directives from time to time governing
140 the terms of such tenant selection plans, consistent with regulations issued by the department of housing
141 and community development under subsection (v) of section 3 of chapter 23B of the General Laws and
142 section 32 of chapter 121B of the General Laws. Such plans shall include criteria for tenant selection
143 which establish income limits for eligible tenants which may vary with the size and circumstances of the
144 persons or family and the funding sources. Tenant selection plans shall provide that as between
145 applicants equally in need and eligible for occupancy of the unit, preference shall be given to persons
146 displaced by public action or natural disaster and to other persons who are homeless or facing imminent
147 homelessness pursuant to such regulations as are issued by the department of housing and community
148 development. Tenant selection plans shall also provide with respects to apartment units designated for
149 rent at the adjusted rental that the housing authority in the city or town in which the project is located, or
150 such other agency as the department of housing and community development may from time to time
151 designate, shall have the rights to designate tenants, who are otherwise eligible, for such units as they
152 become available, either in the initial renting of the projects or as vacancies thereafter occur.